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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,704	02/05/2002	Charles R. DeJohn	DP-305557	9217
22851	7590	06/13/2005	EXAMINER	
DELPHI TECHNOLOGIES, INC. M/C 480-410-202 PO BOX 5052 TROY, MI 48007			ALEJANDRO, RAYMOND	
			ART UNIT	PAPER NUMBER
			1745	

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/068,704

Applicant(s)

DEJOHN ET AL.

Examiner

Raymond Alejandro

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 June 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-8.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see next page.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.

RAYMOND ALEJANDRO
Primary Examiner
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Continuation of 5. Applicant's reply has overcome the following rejection(s): applicant's reply has overcome the objection to the specification (item 3 of the 01/13/05 final rejection).

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 06/02/05 have been fully considered but they are not persuasive.
2. The main contention of applicants' arguments is premised on the assertion that "*the '049 reference is not prior art against the present application under 35 USC 102(e) because it has a filing date of September 20, 2003, which is after Applicant's filing date of February 02, 2002*" and that "*the Becerra et al parent application, published as US 2003/0129464, fails to disclose or suggest a wastewater port located at a second cavity, which is a required element of Applicant's claims*". However, this assertion is still insufficient to overcome the rejection. Accordingly, as requested by the applicants, the examiner will briefly illustrate and discuss the specific citation of the **Becerra et al parent application (US Patent Application Publication 2003/0129464 or US patent application 10/041301)** showing support for the claimed subject matter. Particularly, paragraphs 0056, 0058 and 0060, and Figures 11-12:

[0056] Another aspect of the invention is illustrated in FIG. 11. FIG. 11 depicts part of a fuel cell system 1100 which has a fuel cell 1101 supplied by a fuel container and delivery assembly 1102. The fuel container and delivery assembly has an outer rigid shell 1103 that houses an inner cartridge 1104. The inner cartridge 1104 encloses a collapsible bag, or flexible bladder 1105, which contains the aqueous fuel solution. As the volume of fuel decreases with fuel consumption, the collapsible bag 1105 accommodates the change in volume. In this embodiment of the invention, the inner cartridge 1104 is replaceable. The replaceable cartridge 1104 has a fuel outlet conduit (also referred to herein as a fuel exit port) 1106 through which fuel is directed to an optional pump 1108, to the fuel cell 1101. In addition, the replaceable fuel cartridge 1104 has a fuel return port 1110 to enable the recirculation of unused fuel back into the fuel container 1102. This configuration enables a relatively low concentration of methanol to be utilized. Once the methanol concentration falls below a useful level, and the useable fuel is consumed, the cartridge can be removed and disposed of.

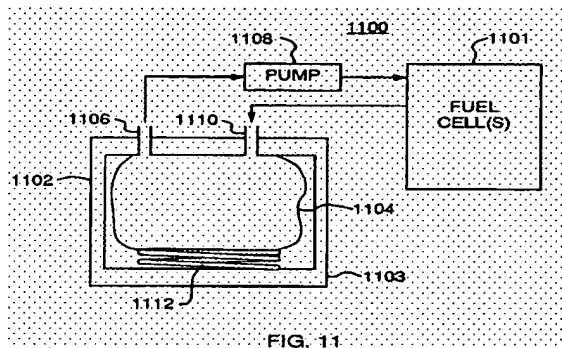


FIG. 11

[0058] FIG. 12 depicts an alternative embodiment in which a fuel cell system 1200, has a fuel cell 1201 (or a plurality of fuel cells) that is supplied with fuel from fuel container and delivery assembly 1202. In this embodiment, the fuel container and delivery assembly includes a disposable container 1204 that encloses dual fuel bladders (or bags) 1205a and 1205b. This enables delivery of different

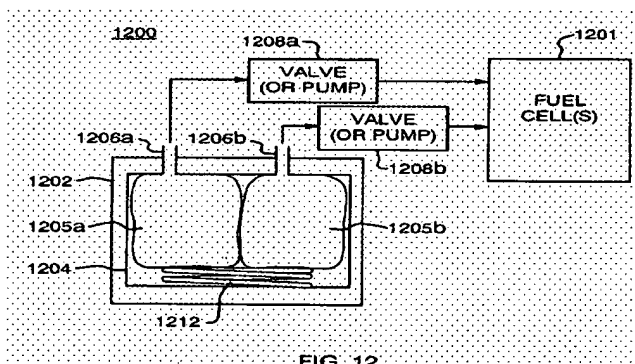


FIG. 12

[0060] It should be understood that the concepts described with respect to each of the embodiments may be interchanged and varied while remaining within the scope of the present invention. Furthermore, it may be beneficial in

In this regard, applicant's attention is directed to Figure 12 which depicts one embodiment of the fuel container and delivery assembly including a dual bladder sub-assembly (*which represents the movable barrier dividing the interior into first and second cavities*) and having two (2) ports regardless of the specifically intended use thereof (i.e. for fuel and for wastewater) (*←emphasis added*). Therefore, since the present claim language does not positively stipulate that, indeed, fuel is flowing through the fuel port and wastewater is also flowing through the wastewater port, the current claim language has been construed as merely

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intending to recite a generic structure being a storage device comprising a housing having a movable barrier dividing the interior thereof into a first cavity and a second cavity and further comprising a first port and a second port per se. Stated somewhat differently, there is nothing in the current claims clearly setting forth the presence of a fuel fluid and a wastewater fluid, in a constructive manner, flowing therethrough respectively. Thus, the prior art of record fulfills and completely matches the necessary structural interrelationship to satisfy the claimed requirement.

Even assuming arguendo that the currently claimed invention does include the positive presence of respective fuel and wastewater flowing through the fuel port and the wastewater port (*a point not conceded by the examiner*), it is further contended that a combination of the embodiments of the fuel container and delivery assemblies illustrated in Figures 11-12 provides the claimed structure of having a storage device comprising a housing (Figure 11 or 12), a movable barrier dividing the interior thereof into first and second cavities (Figure 12), two ports (Figure 11 or 12), and specifically a fuel port (Figure 11) (*i.e. reference numeral 1106 fuel outlet conduit or fuel exit port*) and an exhaust (wastewater) port (Figure 11) (*i.e. reference numeral 1110 fuel return port*). In this case, the examiner's position is found to be reasonable simply because the reference per se discusses that "*It should be understood that the concepts described with respect to each of the embodiments may be interchanged and varied while remaining within the scope of the present invention*".

[0060] It should be understood that the concepts described with respect to each of the embodiments may be interchanged and varied while remaining within the scope of the present invention. Furthermore, it may be beneficial in

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In consequence, in light of this disclosure, one way or another, the examiner's interpretation of the claim language immediately encompasses the claimed subject matter and/or the examiner's characterization of the Becerra parent application (*US Patent Application Publication 2003/0129464 or US patent application 10/041301*) fully supports the Becerra child application (*US Patent Application Publication 2004/0072049 or US patent application 10/675668*), and therefore, the ground of rejection for the claimed invention.

RAYMOND ALEJANDRO
PRIMARY EXAMINER

